

AMENDED IN SENATE JUNE 23, 2005

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1435**

**Introduced by Assembly Member Evans**

February 22, 2005

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An act to amend Sections ~~70403~~ 70312, 70325, 70375, 70403, and 76100 of the Government Code, relating to courts.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1435, as amended, Evans. ~~Courthouse Construction Fund.~~  
*Court facilities.*

*(1) Under existing law, if responsibility for court facilities is transferred from a county to the Judicial Council, the county is relieved from the responsibility of providing those facilities. Existing law also specifies that this provision does not relieve a county of its obligation to make certain county facilities payments.*

*This bill would revise an erroneous cross-reference contained in those provisions.*

*(2) Existing law establishes a State Court Facilities Construction Fund, and specifies that the authority for certain penalties and filing fees expires proportionally as of the date of the transfer of responsibility for facilities from the county to the Judicial Council, except as specified.*

*This bill would instead provide that the authority for those penalties and filing fees expires proportionally on the June 30th following the date of transfer of responsibility.*

*(3) Existing law authorizes the board of supervisors of any county to establish in the county treasury a Courthouse Construction Fund*

into which penalties collected by the counties on fines for criminal offenses are deposited for the purpose of assisting the county in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system. Existing law requires counties to make reports to the Administrative Office of the Courts and to the Department of Finance accounting for the receipt and expenditure of these funds, as specified, and provides that funds used for purposes other than ones specifically permitted must be repaid.

This bill would authorize moneys in the Courthouse Construction Fund to also be used for the purpose of assisting the county in the acquisition, rehabilitation, construction, and financing of court facilities. This bill would specify that certain of the changes it makes are declarative of existing law and would require that these provisions be used to make determinations regarding whether the funds described above were used for authorized purposes. The bill would require the Judicial Council to submit a report on county receipts and expenditures in connection with these funds to the Legislature on or before January 1, of each year.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 70312 of the Government Code is  
2     amended to read:  
3     70312. If responsibility for court facilities is transferred from  
4     the county to the Judicial Council pursuant to this chapter, the  
5     county is relieved of any responsibility under Section 70311 for  
6     providing those facilities. The county is also relieved of any  
7     responsibility for deferred or ongoing maintenance for the  
8     facility transferred, except for the county facilities payment  
9     required by Section 70353. Except as otherwise provided by this  
10    chapter, or by the agreement between the Judicial Council and  
11    the county under this chapter, the Judicial Council shall have  
12    ongoing responsibility for providing trial court facilities. If  
13    responsibility for all court facilities within a county has been  
14    transferred pursuant to this chapter, that county shall have no  
15    responsibility for providing court facilities. This section does not

relieve a county of its obligation under Article 5 (commencing with Section ~~70341~~ 70351) or its obligations under any agreement entered into pursuant to this chapter.

*SEC. 2. Section 70325 of the Government Code is amended to read:*

70325. (a) (1) If title to a building proposed to be transferred pursuant to this chapter is subject to a bonded indebtedness, the county shall retain the revenue sources used to pay the bonded indebtedness in which case the county shall be required to continue to make the payments on the bonded indebtedness.

(2) As an alternative to paragraph (1), the county and the state may agree that the county shall transfer the revenue sources to the state, in which case, the state shall be required to make the payments on the bonded indebtedness in the amount of the revenue received. If the amount payable on the bonded indebtedness exceeds the amount of the revenue transferred to the state, the county shall be responsible for paying the remaining amount. If a revenue source is used to pay the bonded indebtedness on several buildings and not all of those buildings are being transferred to the state, the county shall transfer the proportion of the revenue used to pay the bonded indebtedness on the buildings transferred to the state. Except for revenue sources subject to Section 70375, any revenue source transferred by the county to the state under this paragraph shall be transferred back to the county by the state when the bonded indebtedness on the building is retired.

(b) Except in the case of a shared use building or historical ~~facility~~ building whose title is not being transferred from the county, the agreement concerning transfer of responsibility for court facilities contained in a building subject to bonded indebtedness shall specify when title to the building will transfer, which shall not be later than the date of final payment of the bonded indebtedness on the building. A county shall not extend the term of the final maturity date of, or increase the amount of, any bonded indebtedness on a building containing court facilities whose responsibility has been transferred to the state without the consent of the Administrative Director of the Courts. For the purposes of this subdivision, the amount of the bonded indebtedness shall not be deemed to be increased if the amount is refunded for an amount not greater than the original principal

1 amount of the indebtedness plus any costs relating to the  
2 refunding of the bonded indebtedness.

3 (c) Notwithstanding any provision to the contrary in this  
4 chapter, during the period and to the extent which bonded  
5 indebtedness is outstanding with respect to any court facility, the  
6 state shall not have any equity or other ownership rights in, to, or  
7 with respect to, the court facility. A county may not sell, assign,  
8 or transfer any rights or interests in that facility, or otherwise  
9 further encumber the facility, other than those rights, interests, or  
10 encumbrances required by legal documents establishing the  
11 bonded indebtedness. If, during the period of bonded  
12 indebtedness outstanding with respect to a court facility, the state  
13 is required to vacate the facility through the operation or  
14 enforcement of the legal documents establishing the bonded  
15 indebtedness, the county shall be responsible for providing the  
16 state with suitable and necessary court facilities at least equal to  
17 those occupied by the state immediately prior to the date on  
18 which the state was compelled to vacate the facility.

19 *SEC. 3. Section 70375 of the Government Code is amended to*  
20 *read:*

21 70375. (a) This article shall take effect on January 1, 2003,  
22 and the fund, penalty, and fee assessment established by this  
23 article shall become operative on January 1, 2003, except as  
24 otherwise provided in this article.

25 (b) In each county, the amount authorized by Section 70372  
26 shall be reduced by the following:

27 (1) The amount collected for deposit into the local courthouse  
28 construction fund established pursuant to Section 76100.

29 (2) The amount collected for transmission to the state for  
30 inclusion in the Transitional State Court Facilities Construction  
31 Fund established pursuant to Section 70401 to the extent it is  
32 funded by money from the local courthouse construction fund.

33 (c) The amount authorized by Section 70373 shall be reduced  
34 by the following in the following counties:

35 (1) In the County of Riverside, the amount collected pursuant  
36 to Section 26826.1 of the Government Code for transmission to  
37 the state for inclusion in the Transitional State Court Facilities  
38 Construction Fund established pursuant to Section 70401.

39 (2) In the County of San Bernardino, the amount collected  
40 pursuant to Section 76236 of the Government Code for

1 transmission to the state for inclusion in the Transitional State  
2 Court Facilities Construction Fund established pursuant to  
3 Section 70401.

4 (3) In the City and County of San Francisco, the amount  
5 collected pursuant to Section 76238 of the Government Code for  
6 transmission to the state for inclusion in the Transitional State  
7 Court Facilities Construction Fund established pursuant to  
8 Section 70401.

9 (d) The authority for all of the following shall expire  
10 proportionally ~~as of on the June 30th following~~ the date of  
11 transfer of responsibility for facilities from the county to the  
12 Judicial Council, except so long as money is needed to pay for  
13 construction provided for in those sections and undertaken prior  
14 to the transfer of responsibility for facilities from the county to  
15 the Judicial Council:

16 (1) An additional penalty for a local courthouse construction  
17 fund established pursuant to Section 76100.

18 (2) A filing fee surcharge in the County of Riverside  
19 established pursuant to Section 26826.1.

20 (3) A filing fee surcharge in the County of San Bernardino  
21 established pursuant to Section 76236.

22 (4) A filing fee surcharge in the City and County of San  
23 Francisco established pursuant to Section 76238.

24 (e) For purposes of subdivision (d), the term “proportionally”  
25 means that proportion of the fee or surcharge that shall expire  
26 upon the transfer of responsibility for a facility that is the same  
27 proportion as the square footage that facility bears to the total  
28 square footage of court facilities in that county.

29 **SECTION 1.—**

30 *SEC. 4.* Section 70403 of the Government Code is amended  
31 to read:

32 70403. (a) Each county shall submit a report to the  
33 Administrative Director of the Courts and the Director of Finance  
34 accounting for all receipts and expenditures from the local  
35 courthouse construction fund established pursuant to Section  
36 76100 for the period from January 1, 1998, to the date of transfer  
37 of the fund pursuant to subdivision (a) of Section 70402 or  
38 December 31, 2005, whichever is earlier.

39 (b) If the county retains the fund under subdivision (a) of  
40 Section 70325 for payment on existing bonded indebtedness of a

1 courthouse facility, the county shall submit annual updates on all  
2 receipts and expenditures from the local courthouse construction  
3 fund, within 90 days of the end of each fiscal year, to the  
4 Administrative Director of the Courts and the Director of  
5 Finance.

6 (c) Any expenditures made from the fund for a purpose other  
7 than those specified in Section 76100 must be repaid to the state  
8 for deposit in the State Court Facilities Construction Fund  
9 pursuant to Section 70402. Either the Administrative Director of  
10 the Courts or the Director of the Department of Finance may  
11 provide the county with notice that an expenditure made from the  
12 fund was for a purpose other than as specified in Section 76100.  
13 If the county disagrees with the determination, it may appeal the  
14 determination to the Court Facilities Dispute Resolution  
15 Committee pursuant to Section 70303.

16 (d) On or before January 1, 2007, and on or before each  
17 January 1, thereafter, the Judicial Council shall submit a report to  
18 the budget and fiscal committees of the Legislature based on the  
19 information received from counties pursuant to this section.

20 ~~SEC. 2.—~~

21 *SEC. 5.* Section 76100 of the Government Code is amended  
22 to read:

23 76100. (a) Except as provided in Article 3 (commencing with  
24 Section 76200), for the purpose of assisting any county in the  
25 acquisition, rehabilitation, construction, and financing of  
26 courtrooms, a courtroom building or buildings containing  
27 facilities necessary or incidental to the operation of the justice  
28 system, or court facilities, the board of supervisors may establish  
29 in the county treasury a Courthouse Construction Fund into  
30 which shall be deposited the amounts specified in the resolutions  
31 adopted by the board of supervisors in accordance with this  
32 chapter. The moneys of the Courthouse Construction Fund shall  
33 be payable only for the purposes set forth in this subdivision and  
34 in subdivision (b) and at the time necessary therefor, subject to  
35 the requirements set forth in Chapter 5.7 (commencing with  
36 Section 70301).

37 (b) In conjunction with the acquisition, rehabilitation,  
38 construction, or financing of court buildings referred to in  
39 subdivision (a), the county may use the moneys of the  
40 Courthouse Construction Fund for either of the following:

1 (1) To rehabilitate existing courtrooms, an existing courtroom  
2 building or buildings, or court facilities, for other uses if a new  
3 courtroom, a courtroom building or buildings, or court facilities  
4 are acquired, constructed, or financed.

5 (2) To acquire, rehabilitate, construct, or finance excess  
6 courtrooms, an excess courtroom building or buildings, or excess  
7 court facilities, if that excess is anticipated to be needed at a later  
8 time.

9 (c) Any excess courtroom, excess courtroom building or  
10 buildings, or excess court facilities, that are acquired,  
11 rehabilitated, constructed, or financed pursuant to subdivision (b)  
12 may be leased or rented for uses other than the operation of the  
13 justice system until the excess courtrooms, excess courtroom  
14 building or buildings, or excess court facilities, are needed for the  
15 operation of the justice system. Any amount received as lease or  
16 rental payments pursuant to this subdivision shall be deposited in  
17 the Courthouse Construction Fund.

18 (d) The fund moneys shall be held by the county treasurer  
19 separate from any funds subject to transfer or division pursuant  
20 to Section 1463 of the Penal Code.

21 (e) The amendments made to subdivision (a) by the act adding  
22 this subdivision are declarative of existing law and shall be used  
23 for determinations made pursuant to subdivision (c) of Section  
24 70403.